

# Roadless Area Conservation National Advisory Committee

## Committee Members

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Utah Department of  
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Ray Vaughan  
WildLaw

Chris Wood  
Trout Unlimited

August 8, 2007

The Honorable Mike Johanns  
Secretary of Agriculture  
United States Department of Agriculture  
1400 Independence Avenue SW  
Mail Stop Code: 0108, Room 217E  
Washington, DC 20250-0108

**Re: Advice of the RACNAC on Colorado's Petition per the Administrative Procedures Act to amend the Forest Service Roadless Area Conservation Rule of 2001.**

Dear Mr. Secretary:

The Roadless Area Conservation National Advisory Committee (RACNAC) hereby presents its advice and recommendations to you on the petition received from Colorado Governor Bill Ritter to use the Administrative Procedures Act to amend the Forest Service Roadless Area Conservation Rule of 2001 relative to National Forest System inventoried roadless areas (IRAs) that lie within the boundaries of the State of Colorado.

At the outset, we want to acknowledge the exemplary efforts of the Colorado Roadless Areas Review Task Force in developing the thoughtful set of recommendations submitted to then Governor Owens on September 13, 2006, for the management of roadless areas in the State. Additionally, we would like to recognize the efforts of officials from the Colorado Department of Natural Resources (DNR) including DNR Director Harris Sherman, and Deputy Director Mike King, in presenting the State's petition in Washington, D.C. on June 13 and 14, 2007. The consensus recommendation of the RACNAC is for the Forest Service and the State of Colorado to proceed into rulemaking based on the petition, as modified by the State's April 11, 2007, letter (hereinafter "the petition") and discussions on that petition during the RACNAC's June meeting.

The RACNAC commends the State of Colorado for its monumental efforts to seek and include input from a variety of stakeholders in the State in the development of its petition. The Colorado Roadless Areas Review Task Force held 16 meetings and addressed every national forest in the State. Through a lengthy process, the task force reviewed and analyzed voluminous public comments and collaborated on the set of recommendations. In moving forward, our recommendation is that the rulemaking and associated processes will continue to engage stakeholders at this level.

In addition to a model public process, Colorado should be commended on the quality of its submission to the U. S. Department of Agriculture (USDA) and the RACNAC. The petition and the documents supporting the petition were well organized and clear. In addition, the maps provided to the RACNAC were detailed, highlighted State lands and

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mineral rights, and proved to be very useful to the RACNAC in our consideration of this petition.

The State of Colorado has requested certain assurances from USDA in going forward with the petition process in a letter dated April 11, 2007. The RACNAC has one suggestion concerning the State of Colorado's request for "interim protection." The RACNAC recommends that if interim protection is in place, current and up-to-date U.S. Forest Service maps of roadless areas should be used to ensure accuracy and the application of the best information available. This is consistent with inventory section of the Colorado petition, which emphasizes the adjustment of IRA boundaries to include corrections or more accurate information.

Additionally, the RACNAC recommends that *prior to* proceeding with rulemaking, the State and the Federal government addresses any necessary map corrections to reflect changes in acreage due to changes in roadless characteristics or Congressionally designated wilderness or special areas.

As the State and Federal government proceed into rulemaking, the RACNAC recommends that they:

- Clarify the State's intention with respect to the Community Wildfire Protection Plan (CWPP) treatments portion of the rule, recognizing the need for community protection and the need for local discretion due to site specific circumstances. Such clarification should address the following:
  - (1) Consideration of more specific guidance on what areas should be included;
  - (2) Clarification that with respect to the tree cutting provisions, officials shall implement projects in balance with roadless area characteristics to the extent practicable;
  - (3) Clarification that the purpose for allowing temporary roads is to carry out CWPPs in a manner that balances community protection and roadless environmental objectives. The RACNAC recommends priority should be given to the use of other viable access options before consideration for temporary roads. The RACNAC is willing to provide more specific suggested guidelines on the use of temporary roads during rulemaking process.
  - (4) Acknowledge in the temporary road building section the high importance of community protection, and the need to design treatments to protect communities while also maintaining roadless area values and characteristics to the extent practicable; and
  - (5) Clarification for communities that do not have a CWPP that areas already containing roads adjacent to communities would receive a higher priority for treatment than unroaded areas not adjacent to communities.
- Emphasize the State's grazing clarification offered in its PowerPoint presentation that:
  - (1) roads for current or future grazing allotments can only be constructed where they are consistent with the forest plans and where there are no other reasonable alternatives;
  - (2) such roads will be subject to the requirements outlined in the petition for roads constructed pursuant to paragraph (b) of the petition;
  - (3) any proposed road establishment or construction be subject to NEPA analysis; and
  - (4) the addition of clarifying language in the rule that recognizes the high importance of maintaining a viable ranching industry in Colorado and provides access to support this goal while also maintaining roadless area values and characteristics.
- Emphasize, based on the State's utility and water conveyance structures clarification offered in its PowerPoint presentation, that with regard to utility and water conveyance structures:
  - (1) roads can be constructed only where consistent with the forest plan and where there are no other reasonable alternatives;
  - (2) such roads will be subject to the requirements outlined in the petition for roads constructed pursuant to paragraph (b) of the petition; and

- (3) inclusion of additional clarifying language that:
  - (a) it is the intent of this rule to continue to allow current forms of motorized/mechanized access for current and extensions of current permits; and
  - (b) with respect to future utility corridors and water conveyance structures roads would be allowed for repair or replacement, rather than construction or replacement of structures.
  - (c) in the rule, clarify how the authorization and construction of future corridors in roadless areas will be handled to protect roadless values.
- Clarify in the ski area portion of the rule:
  - (1) the limits of requiring a wildlife evaluation by the Colorado Department of Wildlife (DOW) for road building activities in these areas;
  - (2) the opportunity by the DNR and DOW to participate as cooperating agencies, but not require them to do so;
  - (3) the impacts to the environment resulting from road building activities within these areas will be scrutinized and mitigated in accordance with NEPA.

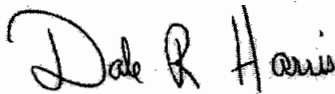
The RACNAC understands that the acreage involved is approximately 10,000 acres subject to clarification through Forest Service mapping.
- Clarify in the forest health/timber treatment portion that this section emphasizes community wildfire protection. Additionally, the RACNAC recommends the rule further identify the purpose of these treatments along the lines of maintaining or restoring the characteristics of ecosystem composition and structure, such as to reduce the risk of uncharacteristic wildfire effects, within the range of variability that would be expected to occur under natural disturbance regimes of the climatic period. Further, consistent with the petition's other references to the Healthy Forest Restoration Act, we recommend the rule adopt some more specific guidelines for these treatments including appropriate provisions of Section 102 (e) and (f) of the law.
- Clarify that the public health portion is intended to address both public health and *safety*, and clarify the definition of "potential threat" to better define what potential threat to natural resource values means so that it is not subject to overly broad interpretation.
- Clarify in the coal section that a NEPA process will be associated with the permitting process and clarify that while DNR and DOW have the opportunity to participate as cooperating agencies, they are not required to do so in every situation. We also recommend consideration of more emphasis on minimizing road building; and an assessment of minerals, existing leases and valid and existing rights, and consideration of technical corrections on maps.
- Establish a Governor's Roadless Rule Advisory Committee to assist the State during the rulemaking effort. The committee would be designed with the same diversity, balance, and consensus requirements as modeled by the Resource Advisory Councils under the Secure Rural Schools and Community Self-Determination Act of 2000 (P.L. 106-393).
- Examine the role of IRAs in Colorado and their contribution to fish, wildlife, and water resources in the context of global warming.

If the Secretary determines rulemaking is appropriate, the RACNAC encourages the State and the Forest Service to share with this Committee their vision of how a rulemaking will proceed prior to the Agency's initiating a notice of intent under NEPA in support of the rule. So it can better understand the working relationship between the State and the Forest Service, the Committee further requests that it be

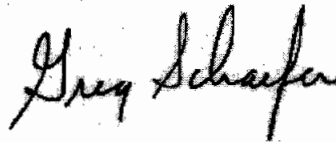
provided with a copy of the memorandum of understanding developed between these parties for the rulemaking. Because of the extent of the clarifications we suggested, we would appreciate the opportunity to receive updates and to continue working with the State and the Forest Service as they proceed through the rulemaking process.

With these recommendations and understandings, we advise that the Secretary accept the petition of Colorado, and proceed to rulemaking. Thank you for your consideration of our advice and recommendations on Colorado's petition. Do not hesitate to contact us if we can be of further assistance to you with this petition:

On behalf of all the members of the RACNAC,



Dale Harris  
RACNAC Co-Chair



Greg Schaefer  
RACNAC Co-Chair

cc: Colorado Governor Bill Ritter, Jr.  
Harris Sherman, Colorado Department of Natural Resources  
Paul Orbuch, Colorado Department of Natural Resources  
Mark Rey, Under Secretary USDA  
Abigail Kimbell, Chief, USFS  
Richard Cook, DFO  
RACNAC Members